

Executive Summary – Enforcement Matter – Case No. 46646
BOH Indian Springs TX, L.P.
RN106455611
Docket No. 2013-0805-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Indian Springs Estates North Unit 2A PUD, located 4,400 feet east from Bulverde Road and Wilderness Oaks, Bexar County

Type of Operation:

Single-family residential construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 6, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,001

Amount Deferred for Expedited Settlement: \$3,600

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$14,401

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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BOH Indian Springs TX, L.P.
RN106455611
Docket No. 2013-0805-EAQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 22, 2013 and February 28, 2013

Date(s) of NOE(s): March 27, 2013

Violation Information

1. Failed to immediately suspend all regulated activities near sensitive features discovered during construction until receiving approval for the methods proposed to protect the sensitive features. Specifically, during the site assessment conducted on February 22, 2013, construction activities were documented to have continued near the sensitive features located at Station 1+45 to 1+70 of Line C and Station 15+06 of Line A without approval. In addition, a wooden form structure with rebar reinforcement was found constructed within three feet of the sensitive feature located at Station 13+00 - Dakota Chief Curb Inlet [30 TEX. ADMIN. CODE § 213.5(f)(2), Organized Sewage Collection System ("SCS") Plan 13-12062902 Standard Conditions No. 10, and Water Pollution Abatement Plan 13-12062903 Standard Conditions No. 12].

2. Failed to install temporary best management practices and measures. Specifically, silt fences surrounding sensitive features located at Stations 1+45 to 1+70 and 3+48 to 3+50 were not installed in a manner which would keep sediment from entering the sensitive features. In addition, no temporary sediment control measures were installed over the sensitive features within the trenches nor within the lateral at Station 20+93 of Line A [30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(c)(3)(L), and Organized SCS Plan 13-12062902 Standard Conditions No. 7].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By February 5, 2013, received approval for the solution feature closure plan for the sensitive feature located at Station 15+06 of Line A;
- b. By February 23, 2013, a temporary sediment control structure was installed to cover the cavity at Station 20+93 of Line A;

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c. By February 25, 2013, the silt fences were extended at Stations 1+45 to 1+70 and 3+48 to 3+50 of Line C and additional temporary sediment control structures were put in place;

d. By March 8, 2013, received approval for the solution feature closure plan for the sensitive features located at Station 1+45 to 1+70 of Line C; and

e. By March 20, 2013, received approval for the solution feature closure plan for the sensitive features located at Station 13+00 – Dakota Chief Curb Inlet.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Christopher Bost, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-4575; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Brian Carlock, Senior Vice President, BOH Indian Springs TX, L.P.,
3090 Olive Street, Suite 300, Dallas, Texas 75219

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	8-Apr-2013	Screening	12-Apr-2013	EPA Due	
	PCW	15-Apr-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	BOH Indian Springs TX, L.P.		
Reg. Ent. Ref. No.	RN106455611		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	46646	No. of Violations	2
Docket No.	2013-0805-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Christopher Bost
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$1,125
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Notes	Enhancement for one NOV with same/similar violations.		
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.		
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$5,624
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$11
 Approx. Cost of Compliance \$3,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,001
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
Final Penalty Amount	\$18,001

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,001
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DEFERRAL	20.0% Reduction	Adjustment	-\$3,600
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.		
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PAYABLE PENALTY	\$14,401
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Screening Date 12-Apr-2013

Docket No. 2013-0805-EAQ-E

PCW

Respondent BOH Indian Springs TX, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46646

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106455611

Media [Statute] Edwards Aquifer

Enf. Coordinator Christopher Bost

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 12-Apr-2013

Docket No. 2013-0805-EAQ-E

PCW

Respondent BOH Indian Springs TX, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46646

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106455611

Media [Statute] Edwards Aquifer

Enf. Coordinator Christopher Bost

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.5(f)(2), Organized Sewage Collection System ("SCS")
Plan 13-12062902 Standard Conditions No. 10, and Water Pollution Abatement
Plan 13-12062903 Standard Conditions No. 12

Violation Description

Failed to immediately suspend all regulated activities near sensitive features discovered during construction until receiving approval for the methods proposed to protect the sensitive features, as documented during investigations conducted on February 22, 2013 and February 28, 2013. Specifically, during the site assessment conducted on February 22, 2013, construction activities were documented to have continued near the sensitive features located at Station 1+45 to 1+70 of Line C and Station 15+06 of Line A without approval. In addition, during the site assessment conducted on February 28, 2013, a wooden form structure with rebar reinforcement was found constructed within three feet of the sensitive feature located at Station 13+00 - Dakota Chief Curb Inlet.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violations.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

26 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events, one for each location, are recommended from the investigation date (February 22, 2013) to the compliance date (March 20, 2013).

Good Faith Efforts to Comply

25.0%

Reduction

\$2,812

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance by March 20, 2013.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$9,001

This violation Final Assessed Penalty (adjusted for limits) \$9,001

Economic Benefit Worksheet

Respondent BOH Indian Springs TX, L.P.
Case ID No. 46646
Reg. Ent. Reference No. RN106455611
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	22-Feb-2013	20-Mar-2013	0.07	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to submit the solution feature closure plans for approval. Date required is the earliest investigation date and final date is the date of the latest approval letter for the solution feature closure plan.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$11

Screening Date 12-Apr-2013
Respondent BOH Indian Springs TX, L.P.
Case ID No. 46646
Reg. Ent. Reference No. RN106455611
Media [Statute] Edwards Aquifer
Enf. Coordinator Christopher Bost
Violation Number 2

Docket No. 2013-0805-EAQ-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s)

30 Tex. Admin. Code §§ 213.4(k) and 213.5(c)(3)(L), and Organized SCS Plan 13-12062902 Standard Conditions No. 7

Violation Description

Failed to install temporary best management practices ("BMPs") and measures, as documented during an investigation conducted on February 22, 2013. Specifically, silt fences surrounding sensitive features located at Stations 1+45 to 1+70 and 3+48 to 3+50 were not installed in a manner which would keep sediment from entering the sensitive features. In addition, no temporary sediment control measures were installed over the sensitive features within the trenches nor within the lateral at Station 20+93 of Line A.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violations.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

3 **Number of violation days**

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events, one for each location, are recommended from the investigation date (February 22, 2013) to the date of compliance (February 25, 2013).

Good Faith Efforts to Comply

25.0%

Reduction

\$2,812

Extraordinary

Ordinary

N/A

Notes

Before NOV NOV to EDRP/Settlement Offer

x

(mark with x)

The Respondent came into compliance by February 25, 2013.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9,001

This violation Final Assessed Penalty (adjusted for limits) \$9,001

Economic Benefit Worksheet

Respondent BOH Indian Springs TX, L.P.

Case ID No. 46646

Reg. Ent. Reference No. RN106455611

Media Edwards Aquifer

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	22-Feb-2013	25-Feb-2013	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement temporary BMPs and sediment controls. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN603450701, RN106455611, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603450701, BOH Indian Springs TX, L.P.	Classification: SATISFACTORY	Rating: 40.00
Regulated Entity:	RN106455611, INDIAN SPRINGS ESTATES NORTH UNIT 2A PUD	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	1	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	4400 FT EAST FROM BULVERDE ROAD AND WILDERNESS OAKS, BEXAR COUNTY, TEXAS		
TCEQ Region:	REGION 13 - SAN ANTONIO		
ID Number(s):			
EDWARDS AQUIFER REGISTRATION	13-12062903	EDWARDS AQUIFER REGISTRATION	13-12062902
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012
		Rating Date:	09/01/2012
Date Compliance History Report Prepared:	April 25, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	April 25, 2008 to April 25, 2013		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Christopher Bost	Phone	(512) 239-4575

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	11/26/2012 (1042817)	CN603450701
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 213, SubChapter A 213.4(k)	
	Description:	Failure to install temporary BMPs in accordance with approved water pollution	

Self Report? abatement plan. NO Classification: Moderate
Citation: 30 TAC Chapter 213, SubChapter A 213.4(k)
Description: Failure to maintain temporary BMPs in accordance with approved WPAP

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BOH INDIAN SPRINGS TX, L.P.
RN106455611**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-0805-EAQ-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BOH Indian Springs TX, L.P. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns a single-family residential construction site located 4,400 feet east from Bulverde Road and Wilderness Oaks in Bexar County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 7, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eighteen Thousand One Dollars (\$18,001) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Four Hundred One Dollars (\$14,401) of the administrative penalty and Three Thousand Six Hundred Dollars

- (\$3,600) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. By February 5, 2013, received approval for the solution feature closure plan for the sensitive feature located at Station 15+06 of Line A;
 - b. By February 23, 2013, a temporary sediment control structure was installed to cover the cavity at Station 20+93 of Line A;
 - c. By February 25, 2013, the silt fences were extended at Stations 1+45 to 1+70 and 3+48 to 3+50 of Line C and additional temporary sediment control structures were put in place;
 - d. By March 8, 2013, received approval for the solution feature closure plan for the sensitive features located at Station 1+45 to 1+70 of Line C; and
 - e. By March 20, 2013, received approval for the solution feature closure plan for the sensitive features located at Station 13+00 – Dakota Chief Curb Inlet.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Site, the Respondent is alleged to have:

1. Failed to immediately suspend all regulated activities near sensitive features discovered during construction until receiving approval for the methods proposed to protect the sensitive features, in violation of 30 TEX. ADMIN. CODE § 213.5(f)(2), Organized Sewage Collection System ("SCS") Plan 13-12062902 Standard Conditions No. 10, and Water Pollution Abatement Plan 13-12062903 Standard Conditions No. 12, as documented during investigations conducted on February 22, 2013 and February 28, 2013. Specifically, during the site assessment conducted on February 22, 2013, construction activities were documented to have continued near the sensitive features located at Station 1+45 to 1+70 of Line C and Station 15+06 of Line A without approval. In addition, during the site assessment conducted on February 28, 2013, a wooden form structure with rebar reinforcement was found constructed within three feet of the sensitive feature located at Station 13+00 - Dakota Chief Curb Inlet.
2. Failed to install temporary best management practices and measures, in violation of 30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(c)(3)(L), and Organized SCS Plan 13-12062902 Standard Conditions No. 7, as documented during an investigation conducted on February 22, 2013. Specifically, silt fences surrounding sensitive features located at Stations 1+45 to 1+70 and 3+48 to 3+50 were not installed in a manner which would keep sediment from entering the sensitive features. In addition, no temporary sediment control measures were installed over the sensitive features within the trenches nor within the lateral at Station 20+93 of Line A.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BOH Indian Springs TX, L.P., Docket No. 2013-0805-EAQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Gracy Miller
For the Executive Director

10.4.13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

7/12/13
Date

BRIAN CARLOCK
Name (Printed or typed)
Authorized Representative of
BOH Indian Springs TX, L.P.

SVP
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.